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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/065,316

10/02/2002

Joseph Leonard Moroso

839-1296

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7590

02/11/2004

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EXAMINER

NGUYEN, NINH H

ART UNIT

PAPER NUMBER

3745

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,316

Applicant(s)

MOROSO, JOSEPH LEONARD

Examiner

Ninh H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 16-21 is/are allowed.
- 6) ☒ Claim(s) 10 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The amendment filed 12/16/03 has been acknowledged and entered. Applicant adds new claim 21 and amends claims 1 and 16 to put claims 1, 16 and the dependent claims in an allowable form. However, during an updated search, a new reference was found to read on claims 10, and 13-15 which were previously indicated as being allowable. Therefore, the Examiner regretfully withdraws the allowability of claims 10 and 13-15.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen (2,586,176).

Olsen discloses a retainer (Figs. 1-2) comprising a generally planer main body including a base portion 10 and a frame portion 11; and a resilient component 20, the resilient component being coupled to and extending from the base portion;

wherein the resilient component is formed as a resilient sheet metal strip 20 (Fig. 1);

wherein the resilient sheet metal strip is coupled at a proximal end thereof to the base portion and terminates at a free distal end 21 (Fig. 2), the resilient sheet metal strip 20 having a pre-formed configuration to extend from a first plane including the planer main body to a second

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plane including the second, free end thereof, the second plane being spaced from and generally parallel to the first plane (Fig. 2), and wherein the metal strip 20 is resilient so as to have a first, rest position wherein the distal end is spaced from the first plane of the main body by a first distance (col. 3, lines 12-16) and a second, installed position wherein the distal end is spaced from the first plane by a second distance (col. 3, lines 33-39), the second distance being less than the first distance.

Allowable Subject Matter

3. Claims 1-9, 16-21 are allowed.
4. Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

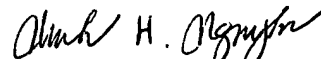
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (703) 305-0061. The examiner can be normally reached on Monday-Friday from 8:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (703) 308-1044. The fax number for this group is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.


NINH H. NGUYEN
PRIMARY EXAMINER

Nhn
February 9, 2004